

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TIFFANY J. CELOTTO,

Plaintiff,

v.

JOHN RYAN,

Defendant.

16-CV-1038
DECISION & ORDER

On December 23, 2016, the plaintiff, Tiffany J. Celotto, commenced this action. Docket Item 1. On March 17, 2017, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 10. On December 10, 2019, the defendant moved to dismiss, Docket Item 44; on January 24, 2020, the plaintiff responded, Docket Item 48; and on January 30, 2020, the defendant replied, Docket Item 49. On March 13, 2020, Judge Scott issued a Report and Recommendation ("R&R") finding that the defendant's motion should be denied. Docket Item 53. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72

requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to deny the defendant's motion.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 44, is DENIED. The case is referred back to Judge Scott for further proceedings consistent with the referral order of March 17, 2017, Docket Item 10.

SO ORDERED.

Dated: April 6, 2020
Buffalo, New York

/s/ Lawrence J. Vilaro
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE